

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 398**

Introduced by Redfield, 12; Mines, 18; Raikes, 25

Read first time January 15, 2003

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 13-2105, 77-2701.01, 77-2715, 77-2727, 77-2734.01,  
3 77-2734.02, 77-2767, and 81-1201.12, Reissue Revised  
4 Statutes of Nebraska, and sections 77-908, 77-2701,  
5 77-2715.02, 77-2715.07, 77-2716.01, 77-2717, 77-2734.03,  
6 and 77-3806, Revised Statutes Supplement, 2002; to change  
7 and eliminate provisions relating to income tax  
8 calculations; to eliminate certain tax credits; to repeal  
9 the Beginning Farmer Tax Credit Act and the Community  
10 Development Assistance Act; to harmonize provisions; to  
11 provide an operative date; to repeal the original  
12 sections; and to outright repeal sections 13-201, 13-202,  
13 13-204, 13-205, 13-208, and 77-2716.03, Reissue Revised  
14 Statutes of Nebraska, and sections 13-203, 13-206,  
15 13-207, 77-27,222, and 77-5201 to 77-5214, Revised  
16 Statutes Supplement, 2002.

17 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-2105, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-2105. The Legislature shall encourage the targeting  
4 of funds from federal programs, including Community Development  
5 Block Grants, the Job Training Partnership Act, Community Services  
6 Block Grants, federal highway funds, or other federal funds  
7 received by the state for designated enterprise zones. Local  
8 governments shall be encouraged to use federal funds to provide  
9 assistance to business activities in enterprise zones. ~~and to seek~~  
10 ~~designation of appropriate areas as community development areas~~  
11 ~~under the Community Development Assistance Act.~~ The Governor shall  
12 provide a state government interagency response team to work with  
13 local governments and enterprise zone associations on effective  
14 ways to use new and existing resources from all levels of  
15 government to improve development capacity in enterprise zones and  
16 accomplish the purposes of the Enterprise Zone Act.

17           Sec. 2. Section 77-908, Revised Statutes Supplement,  
18 2002, is amended to read:

19           77-908. Every insurance company organized under the  
20 stock, mutual, assessment, or reciprocal plan, except fraternal  
21 benefit societies, which is transacting business in this state  
22 shall, on or before March 1 of each year, pay a tax to the director  
23 of one percent of the gross amount of direct writing premiums  
24 received by it during the preceding calendar year for business done  
25 in this state, except that (1) for group sickness and accident  
26 insurance the rate of such tax shall be five-tenths of one percent,  
27 (2) for property and casualty insurance, excluding individual  
28 sickness and accident insurance, the rate of such tax shall be one

1 percent, and (3) for capitation payments made in accordance with  
2 the Managed Care Plan Act, the rate of tax shall be five percent.  
3 The taxable premiums shall include premiums paid on the lives of  
4 persons residing in this state and premiums paid for risks located  
5 in this state whether the insurance was written in this state or  
6 not, including that portion of a group premium paid which  
7 represents the premium for insurance on Nebraska residents or risks  
8 located in Nebraska included within the group when the number of  
9 lives in the group exceeds five hundred. The tax shall also apply  
10 to premiums received by domestic companies for insurance written on  
11 individuals residing outside this state or risks located outside  
12 this state if no comparable tax is paid by the direct writing  
13 domestic company to any other appropriate taxing authority.  
14 Companies whose scheme of operation contemplates the return of a  
15 portion of premiums to policyholders, without such policyholders  
16 being claimants under the terms of their policies, may deduct such  
17 return premiums or dividends from their gross premiums for the  
18 purpose of tax calculations. ~~Any such insurance company shall~~  
19 ~~receive a credit on the tax imposed as provided in the Community~~  
20 ~~Development Assistance Act and section 77-27,222.~~

21 Sec. 3. Section 77-2701, Revised Statutes Supplement,  
22 2002, is amended to read:

23 77-2701. Sections 77-2701 to 77-27,135.01 and ~~77-27,222~~  
24 shall be known and may be cited as the Nebraska Revenue Act of  
25 1967.

26 Sec. 4. Section 77-2701.01, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28 77-2701.01. ~~Pursuant to section 77-2715.01, for all~~

1 taxable years beginning or deemed to begin on or after January 1,  
2 1990, under the Internal Revenue Code of 1986, as amended, the rate  
3 of the income tax levied pursuant to section 77-2715 shall be three  
4 and ~~forty-three-hundredths~~ percent. Pursuant to section  
5 77-2715.01, for all taxable years beginning or deemed to begin on  
6 or after January 1, 1991, and before January 1, 2004, under the  
7 Internal Revenue Code of 1986, as amended, the rate of the income  
8 tax levied pursuant to section 77-2715 shall be three and  
9 seventy-hundredths percent. Pursuant to section 77-2715.01, for  
10 all taxable years beginning or deemed to begin on or after January  
11 1, 2004, under the Internal Revenue Code of 1986, as amended, the  
12 rate of the income tax levied pursuant to section 77-2715 shall be  
13 five percent.

14 Sec. 5. Section 77-2715, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 77-2715. (1) A tax is hereby imposed for each taxable  
17 year on the entire income of every resident individual and on the  
18 income of every nonresident individual and partial-year resident  
19 individual which is derived from sources within this state, except  
20 that any individual who has additions to adjusted gross income  
21 pursuant to section 77-2716 of less than five thousand dollars  
22 shall not have an individual income tax liability after  
23 nonrefundable credits under the Nebraska Revenue Act of 1967 that  
24 exceeds his or her individual income tax liability before credits  
25 under the Internal Revenue Code of 1986.

26 (2) The tax for each resident individual shall be a  
27 percentage of such individual's federal adjusted gross income as  
28 modified in sections 77-2716 and 77-2716.01, plus a percentage of

1 the federal alternative minimum tax and the federal tax on  
2 premature or lump-sum distributions from qualified retirement  
3 plans. The additional taxes shall be recomputed by (a)  
4 substituting Nebraska taxable income for federal taxable income,  
5 (b) calculating what the federal alternative minimum tax would be  
6 on Nebraska taxable income and adjusting such calculations for any  
7 items which are reflected differently in the determination of  
8 federal taxable income, and (c) applying Nebraska rates to the  
9 result. The federal credit for prior year minimum tax, after the  
10 recomputations required by the act, shall be allowed as a reduction  
11 in the income tax due.

12 (3) The tax for each nonresident individual and  
13 partial-year resident individual shall be the portion of the tax  
14 imposed on resident individuals which is attributable to the income  
15 derived from sources within this state. The tax which is  
16 attributable to income derived from sources within this state shall  
17 be determined by subtracting from the liability to this state for a  
18 resident individual with the same total income the personal credit  
19 ~~for personal exemptions~~ and multiplying the result by a fraction,  
20 the numerator of which is the nonresident individual's or  
21 partial-year resident individual's Nebraska adjusted gross income  
22 as determined by section 77-2733 or 77-2733.01 and the denominator  
23 of which is his or her total federal adjusted gross income, after  
24 first adjusting each by the amounts provided in section 77-2716.  
25 If this determination attributes more or less tax than is  
26 reasonably attributable to income derived from sources within this  
27 state, the taxpayer may petition for or the Tax Commissioner may  
28 require the employment of any other method to attribute an amount

1 of tax which is reasonable and equitable in the circumstances.

2 (4) The tax for each estate and trust, other than trusts  
3 taxed as corporations under the Internal Revenue Code of 1986,  
4 shall be as determined under section 77-2717.

5 (5) A refund shall be allowed to the extent that the  
6 income tax paid by the individual, estate, or trust for the taxable  
7 year exceeds the income tax payable, except that no refund shall be  
8 made in any amount less than two dollars.

9 Sec. 6. Section 77-2715.02, Revised Statutes Supplement,  
10 2002, is amended to read:

11 77-2715.02. ~~(1) Whenever the primary rate is changed by~~  
12 ~~the Legislature under section 77-2715.01, the Tax Commissioner~~  
13 ~~shall update the rate schedules required in subsection (2) of this~~  
14 ~~section to reflect the new primary rate and shall publish such~~  
15 ~~updated schedules.~~

16 ~~(2) The following rate schedules are hereby established~~  
17 ~~for the Nebraska individual income tax and shall be in the~~  
18 ~~following form:~~

19 ~~(a) The income amounts for columns A and E shall be:~~

20 ~~(i) \$0, \$2,400, \$17,000, and \$26,500, for single returns,~~

21 ~~(ii) \$0, \$4,000, \$30,000, and \$46,750, for married filing~~  
22 ~~joint returns,~~

23 ~~(iii) \$0, \$3,800, \$24,000, and \$35,000, for~~  
24 ~~head-of-household returns,~~

25 ~~(iv) \$0, \$2,000, \$15,000, and \$23,375, for married filing~~  
26 ~~separate returns, and~~

27 ~~(v) \$0, \$500, \$4,700, and \$15,150, for estates and~~  
28 ~~trusts,~~

1           ~~(b) The amount in column C shall be the total amount of~~  
 2     ~~the tax imposed on income less than the amount in column A,~~

3           ~~(c) The amount in column D shall be the rate on the~~  
 4     ~~income in excess of the amount in column E,~~

5           ~~(d) For taxable years beginning or deemed to begin before~~  
 6     ~~January 1, 2003, and for taxable years beginning or deemed to begin~~  
 7     ~~on or after January 1, 2004, under the Internal Revenue Code of~~  
 8     ~~1986, as amended, the primary rate set by the Legislature shall be~~  
 9     ~~multiplied by the following factors to compute the tax rates for~~  
 10    ~~column D. The factors for the brackets, from lowest to highest~~  
 11    ~~bracket, shall be .6784, .9432, 1.3541, and 1.8054,~~

12           ~~(e) For taxable years beginning or deemed to begin on or~~  
 13    ~~after January 1, 2003, and before January 1, 2004, under the~~  
 14    ~~Internal Revenue Code of 1986, as amended, the primary rate set by~~  
 15    ~~the Legislature shall be multiplied by the following factors to~~  
 16    ~~compute the tax rates for column D. The factors for the brackets,~~  
 17    ~~from lowest to highest bracket, shall be .6932, .9646, 1.3846, and~~  
 18    ~~1.848,~~

19           ~~(f) The amounts for column C shall be rounded to the~~  
 20    ~~nearest dollar, and the amounts in column D shall be rounded to~~  
 21    ~~hundredths of one percent, and~~

22           ~~(g) One rate schedule shall be established for each~~  
 23    ~~federal filing status.~~

24           ~~(3) The tax rate schedules shall use the format set forth~~  
 25    ~~in this subsection.~~

26	A	B	C	D	E
27	Taxable income	but not	pay	plus	of the
28	over	over			amount over

1           ~~(4)~~ (1) The rate of income tax shall be the primary rate  
2 established in section 77-2701.01.

3           (2) The tax rate applied to other federal taxes included  
4 in the computation of the Nebraska individual income tax shall be  
5 ~~eight~~ five and ninety-two hundredths times the primary rate.

6           ~~(5)~~ (3) The Tax Commissioner shall prepare, from the rate  
7 schedules, tax tables which can be used by a majority of the  
8 taxpayers to determine their Nebraska tax liability. The design of  
9 the tax tables shall be determined by the Tax Commissioner. The  
10 size of the tax table brackets may change as the level of income  
11 changes. The difference in tax between two tax table brackets  
12 shall not exceed fifteen dollars. The Tax Commissioner may build  
13 the personal ~~exemption~~ credit and standard deduction amounts into  
14 the tax tables.

15           ~~(6)~~ (4) The Tax Commissioner may require by rule and  
16 regulation that all taxpayers shall use the tax tables if their  
17 income is less than the maximum income included in the tax tables.

18           Sec. 7. Section 77-2715.07, Revised Statutes Supplement,  
19 2002, is amended to read:

20           77-2715.07. (1) There shall be allowed to qualified  
21 resident individuals as a nonrefundable credit against the income  
22 tax imposed by the Nebraska Revenue Act of 1967:

23           (a) A credit equal to the federal credit allowed under  
24 section 22 of the Internal Revenue Code; and

25           (b) A credit for taxes paid to another state as provided  
26 in section 77-2730.

27           ~~(2)~~ There shall be allowed to ~~qualified resident~~  
28 ~~individuals against the income tax imposed by the Nebraska Revenue~~



1 Act of 1967+.

2           (a) For returns filed reporting federal adjusted gross  
3 incomes of greater than twenty-nine thousand dollars, a  
4 nonrefundable credit equal to twenty-five percent of the federal  
5 credit allowed under section 21 of the Internal Revenue Code of  
6 1986, as amended,

7           (b) For returns filed reporting federal adjusted gross  
8 income of twenty-nine thousand dollars or less, a refundable credit  
9 equal to a percentage of the federal credit allowable under section  
10 21 of the Internal Revenue Code of 1986, as amended, whether or not  
11 the federal credit was limited by the federal tax liability. The  
12 percentage of the federal credit shall be one hundred percent for  
13 incomes not greater than twenty-two thousand dollars, and the  
14 percentage shall be reduced by ten percent for each one thousand  
15 dollars, or fraction thereof, by which the reported federal  
16 adjusted gross income exceeds twenty-two thousand dollars, and

17           (c) A refundable credit for individuals who qualify for  
18 an income tax credit under the Beginning Farmer Tax Credit Act for  
19 all taxable years beginning or deemed to begin on or after January  
20 1, 2001, under the Internal Revenue Code of 1986, as amended.

21           ~~(3)~~ (2) There shall be allowed to all individuals as a  
22 nonrefundable credit against the income tax imposed by the Nebraska  
23 Revenue Act of 1967+.

24           (a) A credit for personal exemptions personal and  
25 dependent credits allowed under section 77-2716.01. + and

26           (b) A credit for contributions to certified community  
27 betterment programs as provided in the Community Development  
28 Assistance Act. Each partner, each shareholder of an electing

1 ~~subchapter S corporation, each beneficiary of an estate or trust,~~  
 2 ~~or each member of a limited liability company shall report his or~~  
 3 ~~her share of the credit in the same manner and proportion as he or~~  
 4 ~~she reports the partnership, subchapter S corporation, estate,~~  
 5 ~~trust, or limited liability company income.~~

6 ~~(4)~~ (3) There shall be allowed as a credit against the  
 7 income tax imposed by the Nebraska Revenue Act of 1967+

8 ~~(a)~~ A a credit to all resident estates and trusts for  
 9 taxes paid to another state as provided in section 77-2730. ~~+~~ and

10 ~~(b)~~ A credit to all estates and trusts for contributions  
 11 to certified community betterment programs as provided in the  
 12 Community Development Assistance Act.

13 ~~(5)~~ There shall be allowed to all business firms as a  
 14 credit against the income tax imposed by the Nebraska Revenue Act  
 15 of 1967 a credit as provided in section 77-27,222.

16 (4) There shall be allowed to qualified resident  
 17 individuals a refundable credit against the income tax imposed by  
 18 the Nebraska Revenue Act of 1967 equal to twenty percent of the  
 19 federal credit allowed under section 32 of the Internal Revenue  
 20 Code of 1986, as amended.

21 Sec. 8. Section 77-2716.01, Revised Statutes Supplement,  
 22 2002, is amended to read:

23 77-2716.01. (1)(a) Every individual shall be allowed to  
 24 subtract from his or her income tax liability an amount for  
 25 personal ~~exemptions.~~ The and dependent credits.

26 (b) For taxable years beginning on or before December 31,  
 27 2003, under the Internal Revenue Code of 1986, as amended, the  
 28 amount allowed to be subtracted shall be the credit amount for the

1 year as provided in this section multiplied by the number of  
2 exemptions allowed on the federal return. For tax year 1993, the  
3 credit amount shall be sixty-five dollars; for tax year 1994, the  
4 credit amount shall be sixty-nine dollars; for tax year 1995, the  
5 credit amount shall be sixty-nine dollars; for tax year 1996, the  
6 credit amount shall be seventy-two dollars; for tax year 1997, the  
7 credit amount shall be eighty-six dollars; for tax year 1998, the  
8 credit amount shall be eighty-eight dollars; for tax year 1999, and  
9 each year thereafter, the credit amount shall be adjusted for  
10 inflation by the method provided in section 151 of the Internal  
11 Revenue Code of 1986, as amended. The eighty-eight-dollar credit  
12 amount shall be adjusted for cumulative inflation since 1998. If  
13 any credit amount is not an even dollar amount, the amount shall be  
14 rounded to the nearest dollar.

15 (c) For taxable years beginning on or after January 1,  
16 2004, under the code, the amount shall be one hundred dollars.  
17 For tax year 2005 and each year thereafter, the credit amount shall  
18 be adjusted for inflation by the method provided in section 151 of  
19 the Internal Revenue Code of 1986 as amended. For each child of  
20 the taxpayer that is a dependent of the taxpayer that was at least  
21 six years of age, but no more than twelve years of age on the first  
22 day of the tax year, the taxpayer shall receive two personal and  
23 dependent credits and for each child of the taxpayer that is a  
24 dependent of the taxpayer that was less than six years of age on  
25 the first day of the tax year, the taxpayer shall receive three  
26 personal and dependent credits.

27 (2) Every individual shall be allowed to subtract from  
28 federal adjusted gross income a standard deduction equal to six

1 thousand dollars for single and married filing separately returns  
2 and twelve thousand dollars for married filing jointly and head-of  
3 household returns. The amount allowed for each personal exemption  
4 shall be reduced, but not below zero, by five dollars for each five  
5 thousand dollars, or portion thereof, that federal adjusted gross  
6 income exceeds ninety thousand dollars for married filing joint  
7 returns, fifty-four thousand dollars for single returns,  
8 seventy-five thousand dollars for head-of-household returns, and  
9 for married filing separate returns, one-half the amount stated in  
10 this subsection for married filing joint returns. For nonresident  
11 individuals and partial-year resident individuals, the personal  
12 exemption credit shall be subtracted as specified in subsection (3)  
13 of section 77-2715. For tax year 1994 and each tax year  
14 thereafter, the income levels stated in this subsection shall be  
15 adjusted for inflation by the method provided in section 151 of the  
16 Internal Revenue Code of 1986, as amended. If any income level in  
17 this subsection is not a multiple of one thousand dollars, the  
18 amount shall be rounded to the next highest multiple of one  
19 thousand dollars.

20 (2) Every individual who did not itemize deductions on  
21 his or her federal return shall be allowed to subtract from federal  
22 adjusted gross income a standard deduction equal to the federal  
23 standard deduction for the filing status used on the federal return  
24 except as the amount is adjusted under section 77-2716.03.

25 (3) Every individual who itemized deductions on his or  
26 her federal return shall be allowed to subtract from federal  
27 adjusted gross income the greater of either the standard deduction  
28 allowed in subsection (2) of this section or the amount before the

1 ~~federal disallowance of his or her federal itemized deductions,~~  
2 ~~except for the amount deducted on the federal return for state or~~  
3 ~~local income taxes paid and the amount of any adjustment required~~  
4 ~~under section 77-2716.03.~~

5           Sec. 9.     Section 77-2717, Revised Statutes Supplement,  
6 2002, is amended to read:

7           77-2717. (1)(a) The tax imposed on all resident estates  
8 and trusts shall be a percentage of the federal taxable income of  
9 such estates and trusts as modified in section 77-2716, plus a  
10 percentage of the federal alternative minimum tax and the federal  
11 tax on premature or lump-sum distributions from qualified  
12 retirement plans. The additional taxes shall be recomputed by (i)  
13 substituting Nebraska taxable income for federal taxable income,  
14 (ii) calculating what the federal alternative minimum tax would be  
15 on Nebraska taxable income and adjusting such calculations for any  
16 items which are reflected differently in the determination of  
17 federal taxable income, and (iii) applying Nebraska rates to the  
18 result.     The federal credit for prior year minimum tax, after the  
19 recomputations required by the Nebraska Revenue Act of 1967, ~~and~~  
20 ~~the credit provided in section 77-27,222~~ shall be allowed as a  
21 reduction in the income tax due.

22           (b) The tax imposed on all nonresident estates and trusts  
23 shall be the portion of the tax imposed on resident estates and  
24 trusts which is attributable to the income derived from sources  
25 within this state. The tax which is attributable to income derived  
26 from sources within this state shall be determined by multiplying  
27 the liability to this state for a resident estate or trust with the  
28 same total income by a fraction, the numerator of which is the

1 nonresident estate's or trust's Nebraska income as determined by  
2 sections 77-2724 and 77-2725 and the denominator of which is its  
3 total federal income after first adjusting each by the amounts  
4 provided in section 77-2716.

5 (2) In all instances wherein a fiduciary income tax  
6 return is required under the provisions of the Internal Revenue  
7 Code, a Nebraska fiduciary return shall be filed, except that a  
8 fiduciary return shall not be required to be filed regarding a  
9 simple trust if all of the trust's beneficiaries are residents of  
10 the State of Nebraska, all of the trust's income is derived from  
11 sources in this state, and the trust has no federal tax liability.  
12 The fiduciary shall be responsible for making the return for the  
13 estate or trust for which he or she acts, whether the income be  
14 taxable to the estate or trust or to the beneficiaries thereof.  
15 The fiduciary shall include in the return a statement of each  
16 beneficiary's distributive share of net income when such income is  
17 taxable to such beneficiaries.

18 (3) ~~The beneficiaries of such estate or trust who are~~  
19 ~~residents of this state shall include in their income their~~  
20 ~~proportionate share of such estate's or trust's federal income and~~  
21 ~~shall reduce their Nebraska tax liability by their proportionate~~  
22 ~~share of the credit as provided in section 77-27,222. There shall~~  
23 ~~be allowed to a beneficiary a refundable income tax credit under~~  
24 ~~the Beginning Farmer Tax Credit Act for all taxable years beginning~~  
25 ~~or deemed to begin on or after January 1, 2001, under the Internal~~  
26 ~~Revenue Code of 1986, as amended.~~

27 ~~(4) If any beneficiary of such estate or trust is a~~  
28 ~~nonresident during any part of the estate's or trust's taxable~~

1 year, he or she shall file a Nebraska income tax return which shall  
2 include ~~(a)~~ in Nebraska adjusted gross income that portion of the  
3 estate's or trust's Nebraska income, as determined under sections  
4 77-2724 and 77-2725, allocable to his or her interest in the estate  
5 or trust and ~~(b)~~ a reduction of the Nebraska tax liability by his  
6 or her proportionate share of the credit as provided in section  
7 ~~77-27,222~~ and shall execute and forward to the fiduciary, on or  
8 before the original due date of the Nebraska fiduciary return, an  
9 agreement which states that he or she will file a Nebraska income  
10 tax return and pay income tax on all income derived from or  
11 connected with sources in this state, and such agreement shall be  
12 attached to the Nebraska fiduciary return for such taxable year.

13 ~~(5)~~ (4) In the absence of the nonresident beneficiary's  
14 executed agreement being attached to the Nebraska fiduciary return,  
15 the estate or trust shall remit a portion of such beneficiary's  
16 income which was derived from or attributable to Nebraska sources  
17 with its Nebraska return for the taxable year. The amount of  
18 remittance, in such instance, shall be the ~~highest~~ individual  
19 income tax rate ~~determined~~ under section 77-2715.02 multiplied by  
20 the nonresident beneficiary's share of the estate or trust income  
21 which was derived from or attributable to sources within this  
22 state. The amount remitted shall be allowed as a credit against  
23 the Nebraska income tax liability of the beneficiary.

24 ~~(6)~~ (5) The Tax Commissioner may allow a nonresident  
25 beneficiary to not file a Nebraska income tax return if the  
26 nonresident beneficiary's only source of Nebraska income was his or  
27 her share of the estate's or trust's income which was derived from  
28 or attributable to sources within this state, the nonresident did

1 not file an agreement to file a Nebraska income tax return, and the  
2 estate or trust has remitted the amount required by subsection ~~(5)~~  
3 (4) of this section on behalf of such nonresident beneficiary. The  
4 amount remitted shall be retained in satisfaction of the Nebraska  
5 income tax liability of the nonresident beneficiary.

6 ~~(7)~~ (6) For purposes of this section, unless the context  
7 otherwise requires, simple trust shall mean any trust instrument  
8 which (a) requires that all income shall be distributed currently  
9 to the beneficiaries, (b) does not allow amounts to be paid,  
10 permanently set aside, or used in the tax year for charitable  
11 purposes, and (c) does not distribute amounts allocated in the  
12 corpus of the trust. Any trust which does not qualify as a simple  
13 trust shall be deemed a complex trust.

14 Sec. 10. Section 77-2727, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 77-2727. (1) A partnership as such shall not be subject  
17 to the income tax imposed by the Nebraska Revenue Act of 1967.  
18 Persons or their authorized representatives carrying on business as  
19 partners shall be liable for the income tax imposed by the Nebraska  
20 Revenue Act of 1967 only in their separate or individual  
21 capacities.

22 (2) The partners of such partnership who are residents of  
23 this state or corporations shall include in their incomes their  
24 proportionate share of such partnership's income.

25 (3) If any partner of such partnership is a nonresident  
26 individual during any part of the partnership's reporting year, he  
27 or she shall file a Nebraska income tax return which shall include  
28 in Nebraska adjusted gross income that portion of the partnership's



1 Nebraska income, as determined under the provisions of sections  
2 77-2728 and 77-2729, allocable to his or her interest in the  
3 partnership and shall execute and forward to the partnership, on or  
4 before the original due date of the Nebraska partnership return, an  
5 agreement which states that he or she will file a Nebraska income  
6 tax return and pay income tax on all income derived from or  
7 attributable to sources in this state, and such agreement shall be  
8 attached to the partnership's Nebraska return for such reporting  
9 year.

10 (4)(a) In the absence of the nonresident individual  
11 partner's executed agreement being attached to the Nebraska  
12 partnership return, the partnership shall remit a portion of such  
13 partner's income which was derived from or attributable to Nebraska  
14 sources with its Nebraska return for the reporting year. The  
15 amount of remittance, in such instance, shall be the ~~highest~~  
16 individual income tax rate ~~determined~~ under section 77-2715.02  
17 multiplied by the nonresident individual partner's share of the  
18 partnership income which was derived from or attributable to  
19 sources within this state.

20 (b) Any amount remitted on behalf of any partner shall be  
21 allowed as a credit against the Nebraska income tax liability of  
22 the partner.

23 (5) The Tax Commissioner may allow a nonresident  
24 individual partner to not file a Nebraska income tax return if the  
25 nonresident individual partner's only source of Nebraska income was  
26 his or her share of the partnership's income which was derived from  
27 or attributable to sources within this state, the nonresident did  
28 not file an agreement to file a Nebraska income tax return, and the

1 partnership has remitted the amount required by subsection (4) of  
2 this section on behalf of such nonresident individual partner. The  
3 amount remitted shall be retained in satisfaction of the Nebraska  
4 income tax liability of the nonresident individual partner.

5 Sec. 11. Section 77-2734.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 77-2734.01. (1) Residents of Nebraska who are  
8 shareholders of a small business corporation having an election in  
9 effect under subchapter S of the Internal Revenue Code or who are  
10 members of a limited liability company organized pursuant to the  
11 Limited Liability Company Act shall include in their Nebraska  
12 taxable income, to the extent includable in federal gross income,  
13 their proportionate share of such corporation's or limited  
14 liability company's federal income adjusted pursuant to this  
15 section. Income or loss from such corporation or limited liability  
16 company conducting a business, trade, profession, or occupation  
17 shall be included in the Nebraska taxable income of a shareholder  
18 or member who is a resident of this state to the extent of such  
19 shareholder's or member's proportionate share of the net income or  
20 loss from the conduct of such business, trade, profession, or  
21 occupation within this state, determined under subsection (2) of  
22 this section. A resident of Nebraska shall include in Nebraska  
23 taxable income fair compensation for services rendered to such  
24 corporation or limited liability company. Compensation actually  
25 paid shall be presumed to be fair unless it is apparent to the Tax  
26 Commissioner that such compensation is materially different from  
27 fair value for the services rendered or has been manipulated for  
28 tax avoidance purposes.

1           (2) The income of any small business corporation having  
2 an election in effect under subchapter S of the Internal Revenue  
3 Code or limited liability company organized pursuant to the Limited  
4 Liability Company Act that is derived from or connected with  
5 Nebraska sources shall be determined in the following manner:

6           (a) If the small business corporation is a member of a  
7 unitary group, the small business corporation shall be deemed to be  
8 doing business within this state if any part of its income is  
9 derived from transactions with other members of the unitary group  
10 doing business within this state, and such corporation shall  
11 apportion its income by using the apportionment factor determined  
12 for the entire unitary group, including the small business  
13 corporation, under sections 77-2734.05 to 77-2734.15; and

14           (b) If the small business corporation or limited  
15 liability company is not a member of a unitary group, it shall  
16 apportion its income under sections 77-2734.05 to 77-2734.15.

17           (3) Nonresidents of Nebraska who are shareholders of such  
18 corporations or members of such limited liability companies shall  
19 file a Nebraska income tax return and shall include in Nebraska  
20 adjusted gross income their proportionate share of the  
21 corporation's or limited liability company's Nebraska income as  
22 determined under subsection (2) of this section.

23           (4) The nonresident shareholder or member shall execute  
24 and forward to the corporation or limited liability company before  
25 the filing of the corporation's or limited liability company's  
26 return an agreement which states he or she will file a Nebraska  
27 income tax return and pay the tax on the income derived from or  
28 connected with sources in this state, and such agreement shall be

1 attached to the corporation's or limited liability company's  
2 Nebraska return for such taxable year.

3 (5) In the absence of the nonresident shareholder's or  
4 member's executed agreement being attached to the Nebraska return,  
5 the corporation or limited liability company shall remit with the  
6 return an amount equal to the ~~highest~~ individual income tax rate  
7 ~~determined~~ under section 77-2715.02 multiplied by the nonresident  
8 shareholder's or member's share of the corporation's or limited  
9 liability company's income which was derived from or attributable  
10 to this state. The amount remitted shall be allowed as a credit  
11 against the Nebraska income tax liability of the shareholder or  
12 member.

13 (6) The Tax Commissioner may allow a nonresident  
14 individual shareholder or member to not file a Nebraska income tax  
15 return if the nonresident individual shareholder's or member's only  
16 source of Nebraska income was his or her share of the small  
17 business corporation's or limited liability company's income which  
18 was derived from or attributable to sources within this state, the  
19 nonresident did not file an agreement to file a Nebraska income tax  
20 return, and the small business corporation or limited liability  
21 company has remitted the amount required by subsection (5) of this  
22 section on behalf of such nonresident individual shareholder or  
23 member. The amount remitted shall be retained in satisfaction of  
24 the Nebraska income tax liability of the nonresident individual  
25 shareholder or member.

26 (7) A small business corporation or limited liability  
27 company return shall be filed only if one or more of the  
28 shareholders of the corporation or members of the limited liability

1 company are not residents of the State of Nebraska or if such  
2 corporation or limited liability company has income derived from  
3 sources outside this state.

4 Sec. 12. Section 77-2734.02, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 77-2734.02. (1) Except as provided in subsection (2) of  
7 this section, a tax is hereby imposed for each taxable year on the  
8 taxable income of every corporate taxpayer that is doing business  
9 in this state. For all taxable years beginning or deemed to begin  
10 before January 1, 2004, under the Internal Revenue Code of 1986, as  
11 amended, the rate shall be at a rate equal to one hundred fifty and  
12 eight-tenths percent of the primary rate imposed on individuals  
13 under section 77-2701.01 on the first fifty thousand dollars of  
14 taxable income and at the rate of two hundred eleven percent of  
15 such rate on all taxable income in excess of fifty thousand  
16 dollars. For all taxable years beginning or deemed to begin on or  
17 after January 1, 2004, under the Internal Revenue Code of 1986, as  
18 amended, the rate shall be equal to one hundred seventeen and  
19 five-tenths percent of the primary rate imposed on individuals  
20 under section 77-2701.01 on the first fifty thousand dollars of  
21 taxable income and at the rate of one hundred fifty-six percent of  
22 such rate on all taxable income in excess of fifty thousand  
23 dollars. The resultant rates shall be rounded to the nearest one  
24 hundredth of one percent.

25 (a) For corporate taxpayers with a fiscal year that does  
26 not coincide with the calendar year, the individual rate used for  
27 this subsection shall be the rate in effect on the first day, or  
28 the day deemed to be the first day, of the taxable year.

1           (b) For fiscal years beginning before January 1, 1968,  
2 the rate initially set shall apply for the period from January 1,  
3 1968, to the end of that fiscal year.

4           (2) An insurance company shall be subject to taxation at  
5 the lesser of the rate described in subsection (1) of this section  
6 or the rate of tax imposed by the state or country in which the  
7 insurance company is domiciled if the insurance company can  
8 establish to the satisfaction of the Tax Commissioner that it is  
9 domiciled in a state or country other than Nebraska that imposes on  
10 Nebraska domiciled insurance companies a retaliatory tax against  
11 the tax described in subsection (1) of this section.

12           (3) For a corporate taxpayer that is subject to tax in  
13 another state, its taxable income shall be the portion of the  
14 taxpayer's federal taxable income, as adjusted, that is determined  
15 to be connected with the taxpayer's operations in this state  
16 pursuant to sections 77-2734.05 to 77-2734.15.

17           (4) Each corporate taxpayer shall file only one income  
18 tax return for each taxable year.

19           Sec. 13.       Section 77-2734.03, Revised Statutes  
20 Supplement, 2002, is amended to read:

21           77-2734.03. (1) (a) For taxable years commencing prior to  
22 January 1, 1997, any (i) insurer paying a tax on premiums and  
23 assessments pursuant to section 77-908 or 81-523, (ii) electric  
24 cooperative organized under the Joint Public Power Authority Act,  
25 or (iii) credit union shall be credited, in the computation of the  
26 tax due under the Nebraska Revenue Act of 1967, with the amount  
27 paid during the taxable year as taxes on such premiums and  
28 assessments and taxes in lieu of intangible tax.

1           (b) For taxable years commencing on or after January 1,  
2 1997, any insurer paying a tax on premiums and assessments pursuant  
3 to section 77-908 or 81-523, any electric cooperative organized  
4 under the Joint Public Power Authority Act, or any credit union  
5 shall be credited, in the computation of the tax due under the  
6 Nebraska Revenue Act of 1967, with the amount paid during the  
7 taxable year as (i) taxes on such premiums and assessments included  
8 as Nebraska premiums and assessments under section 77-2734.05 and  
9 (ii) taxes in lieu of intangible tax.

10           (c) For taxable years commencing or deemed to commence  
11 prior to, on, or after January 1, 1998, any insurer paying a tax on  
12 premiums and assessments pursuant to section 77-908 or 81-523 shall  
13 be credited, in the computation of the tax due under the Nebraska  
14 Revenue Act of 1967, with the amount paid during the taxable year  
15 as assessments allowed as an offset against premium and related  
16 retaliatory tax liability pursuant to section 44-4233.

17           (2) There shall be allowed to corporate taxpayers a  
18 credit for nonhighway use motor vehicle fuels as provided in  
19 section 66-4,124.

20           ~~(3) There shall be allowed to corporate taxpayers a tax~~  
21 ~~credit for contributions to community betterment programs as~~  
22 ~~provided in the Community Development Assistance Act.~~

23           ~~(4) There shall be allowed to corporate taxpayers a~~  
24 ~~refundable income tax credit under the Beginning Farmer Tax Credit~~  
25 ~~Act for all taxable years beginning or deemed to begin on or after~~  
26 ~~January 1, 2001, under the Internal Revenue Code of 1986, as~~  
27 ~~amended.~~

28           ~~(5) There shall be allowed to corporate taxpayers a tax~~

1 ~~credit as provided in section 77-27,222.~~

2           Sec. 14.     Section 77-2767, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           77-2767.   Where two returns are required to be filed as  
5 provided in section 77-2765:

6           (1)   Personal ~~exemptions~~ credits and deductions shall be  
7 prorated between the two returns, under regulations prescribed by  
8 the Tax Commissioner, to reflect the proportions of the taxable  
9 year during which the individual was a resident and a nonresident;  
10 and

11           (2)   The total of the taxes due thereon shall not be less  
12 than would be due if the total of the taxable incomes reported on  
13 the two returns were includable in one return.

14           Sec. 15.     Section 77-3806, Revised Statutes Supplement,  
15 2002, is amended to read:

16           77-3806.   (1) The tax return shall be filed and the total  
17 amount of the franchise tax shall be due on the fifteenth day of  
18 the third month after the end of the taxable year. No extension of  
19 time to pay the tax shall be granted. If the Tax Commissioner  
20 determines that the amount of tax can be computed from available  
21 information filed by the financial institutions with either state  
22 or federal regulatory agencies, the Tax Commissioner may, by  
23 regulation, waive the requirement for the financial institutions to  
24 file returns.

25           (2)   Sections 77-2714 to 77-27,135 relating to  
26 deficiencies, penalties, interest, the collection of delinquent  
27 amounts, and appeal procedures for the tax imposed by section  
28 77-2734.02 shall also apply to the tax imposed by section 77-3802.



1 If the filing of a return is waived by the Tax Commissioner, the  
2 payment of the tax shall be considered the filing of a return for  
3 purposes of sections 77-2714 to 77-27,135.

4 (3) No refund of the tax imposed by section 77-3802 shall  
5 be allowed unless a claim for such refund is filed within ninety  
6 days of the date on which (a) the tax is due or was paid, whichever  
7 is later, or (b) a change is made to the amount of deposits or the  
8 net financial income of the financial institution by a state or  
9 federal regulatory agency.

10 ~~(4) Any such financial institution shall receive a credit~~  
11 ~~on the franchise tax as provided under the Community Development~~  
12 ~~Assistance Act and section 77-27,222.~~

13 Sec. 16. Section 81-1201.12, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-1201.12. The department shall:

16 ~~(1) Submit~~ submit and adopt all necessary plans, enter  
17 into contracts, and accept gifts, grants, and federal funds. ~~+~~ and

18 ~~(2) Administer the tax credit program established by the~~  
19 ~~Community Development Assistance Act and adopt and promulgate rules~~  
20 ~~and regulations pursuant to such act.~~

21 Sec. 17. This act shall be operative for all taxable  
22 years beginning or deemed to begin on or after January 1, 2004,  
23 under the Internal Revenue Code of 1986, as amended.

24 Sec. 18. Original sections 13-2105, 77-2701.01, 77-2715,  
25 77-2727, 77-2734.01, 77-2734.02, 77-2767, and 81-1201.12, Reissue  
26 Revised Statutes of Nebraska, and sections 77-908, 77-2701,  
27 77-2715.02, 77-2715.07, 77-2716.01, 77-2717, 77-2734.03, and  
28 77-3806, Revised Statutes Supplement, 2002, are repealed.

1                   Sec. 19.    The following sections are outright repealed:  
2   Sections 13-201, 13-202, 13-204, 13-205, 13-208, and 77-2716.03,  
3   Reissue Revised Statutes of Nebraska, and sections 13-203, 13-206,  
4   13-207, 77-27,222, and 77-5201 to 77-5214, Revised Statutes  
5   Supplement, 2002.